REMARKS

Claims 1, 2 4-16 and 31-33 are pending in the instant application. Claims 1, 2, 4-16 and 31-33 have been rejected. Claims 1, 14, 15 and 33 have been amended. The amendment to claim 33 was made in order to correct an inadvertent typographical error. No new matter has been added by these amendments. Reconsideration is respectfully requested in light of these amendments and the following remarks.

I. Rejection of Claims Under 35 U.S.C. 102(b)

The rejection of claims 1, 2, 6-13, 31 and 32 under 35 U.S.C. 102(b) as being anticipated by Kole et al. (WO94/26887-A1) has been maintained. The Examiner suggests that this patent application teaches a method of altering the splicing of a pre-mRNA wherein an antisense oligonucleotide is hybridized to the pre-mRNA molecule to create a duplex under conditions that permit splicing and that the antisense is one that does not activate RNase H and is selected to block a member of the aberrant set of splice elements so that native protein is produced. Applicants respectfully disagree with the Examiner's conclusions.

As discussed and agreed to in a telephone interview with the Examiner on December 11, 2003, the methods of Kole et al.

(WO94/26887-A1) are clearly directed to a method for controlling the aberrant splicing of mutant mRNA and not wild-type mRNA as claimed. Therefore, the Examiner has agreed that this patent fails to teach or suggest a method of controlling behavior of a normal cell through modulating wild-type or native mRNA processing in the cell (see page 4 of the specification as filed). In order to anticipate an invention, the reference must teach each and every limitation of the claimed invention (MPEP 2131). Clearly, teaching of use of antisense oligonucleotides to alter aberrant splicing is not the same as the present invention which teaches modulation of native mRNA processing in a cell such that the response of that cell to a stimulus is altered (see claim 1 and Examples 6-18 of the specification as filed). Accordingly, this reference cannot anticipate the instant invention as claimed. Further, in order to make it clear that the mRNA of concern in the present invention is wild-type mRNA, the language of the claims as been amended to refer to wild-type mRNA whenever the term "mRNA" is used. Withdrawal of this rejection is, therefore, respectfully requested.

II. Double Patenting

Claims 1, 2, 4-16 and 31-33 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of U.S. Patent No. 6,210,892. The Examiner suggests that although the conflicting claims are not identical that are not patentably distinct from the reference claims. Applicants have enclosed herewith a terminal disclaimer as agreed to in the telephone interview of December 11, 2003. Accordingly, withdrawal of this rejection is respectfully requested.

III. Conclusion

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,

Jane Massey Licata
Reg. No. 32,257

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Licata & Tyrrell P.C.
66 E. Main Street
Marlton, NJ 08053
856-810-1515